

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

UNITED STATES OF AMERICA)	
)	
V.)	No. 2:05-CR-58
)	
SHANNON LYNN SIZEMORE)	

REPORT AND RECOMMENDATION

Upon defendant's plea of guilty to a violation of 18 U.S.C. § 922(g)(1) (felon in possession of a firearm), defendant was sentenced to a term of imprisonment. Judgment was entered on December 9, 2005; *see*, Doc. 54. There was no motion for a new trial or an appeal; thus, the judgment of conviction became final on December 16, 2005.

The judgment of conviction was the result of a plea agreement between the United States and defendant dated July 27, 2005; *see*, Doc. 23. In that agreement, defendant agreed not to file any direct appeal or any motions or pleadings pursuant to 28 U.S.C. § 2255.¹

Defendant has now filed a *pro se* motion in which he asks that the court grant to him "a continuance on the one-year statute [sic] of limitations to file a 2255 motion." (Doc. 63).

Firstly, defendant agreed in his plea agreement that he would not file a motion such as this one. On that basis alone, defendant's motion for an extension of time should be denied.

Secondly, this court is without jurisdiction to extend the one-year limitation for the filing of a motion under 28 U.S.C. § 2255. *See, e.g., United States v. Ailsworth*, 1999 WL 1021073 D.Ct.KS, 1999.

For either or both of the foregoing reasons, it is respectfully recommended that defendant's

¹Paragraph 15, Doc. 23.

motion for an extension of time be denied.²

Any objections to this report and recommendation must be filed within ten (10) days of its service or further appeal will be waived. 28 U.S.C. § 636(b)(1)(B) and (C). *United States v. Walters*, 638 F.2d 947-950 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).

SO ORDERED:

s/ Dennis H. Inman
United States Magistrate Judge

²Since any ruling on defendant's motion is effectively dispositive, the magistrate judge has determined that a report and recommendation is the appropriate vehicle through which to address defendant's motion.